

Lex Lumina PLLC

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February 4, 2023

VIA ECF

The Honorable Jed S. Rakoff
Room 1340
United States Courthouse
500 Pearl Street
New York, NY 10007

Re: *Hermès International et al. v. Rothschild*, 22-cv-00384-JSR;
Neal Supplemental Report and Proposed Jury Instruction

Dear Judge Rakoff,

We represent Defendant Mason Rothschild in the above-referenced matter. Pursuant to Your Honor's direction yesterday evening, we are submitting this letter in tandem with Dr. David Neal's supplemental report, enclosed, which details the additional problems with Dr. Isaacson's expert survey report that are created by his inclusion of the "Hermès" word mark in his survey's test stimulus despite the fact that Hermès no longer asserts infringement of that mark in its trademark claims.

You asked us to specify what Defendant would propose to add to proposed jury Instruction No. 10 in order to take account of this issue. We propose the following addition, to be inserted after the second sentence in Instruction No. 10: Hermès does not allege infringement of the "Hermès" mark.

Thank you for your attention to and consideration of this issue.

Sincerely,

/s/ Rhett O. Millsaps II

Rhett O. Millsaps II

Enclosure